

MAY 06 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK
BY: *[Signature]*
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|--------------------------|---|------------------------------------|
| JEFFERY ALLEN HART, |) | CASE NO. 7:13CV00165 |
| |) | |
| Petitioner, |) | |
| |) | FINAL ORDER |
| v. |) | |
| |) | |
| COMMONWEALTH OF TAZEWELL |) | |
| COUNTY, VIRGINIA, |) | By: Glen E. Conrad |
| |) | Chief United States District Judge |
| Respondent. |) | |

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

that petitioner's objection (ECF No. 4) to the court's order construing his "notice of appeal" and "motion to vacate 'VOID-AB-INITIO' conviction and sentence" as a petition under 28 U.S.C. § 2254, is **SUSTAINED**; petitioner's motion/petition (ECF No. 1) is hereby **DISMISSED** without prejudice, and the action is stricken from the active docket of the court.

Further, finding that petitioner has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

ENTER: This 6th day of May, 2013.

[Signature: Glen E. Conrad]

Chief United States District Judge